

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3562 of 2000

to

FIRST APPEAL No 3575 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

O N G C

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

MR MIHIR THAKORE with MR AJAY R MEHTA for Appellant
MR ND GOHIL, AGP for Respondent No. 1
MR AJ PATEL for Respondent No. 2

CORAM : MR.JUSTICE Y.B.BHATT

and

MR.JUSTICE M.C.PATEL

Date of decision: 21/12/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE Y.B.BHATT)

1. These Appeals were taken up for hearing on a joint request of the learned counsel for the respective parties. Appeals admitted. Mr. A.J. Patel waives service of notice of Appeal and appears for the respondent - original claimant.

2. These are Appeals under Section 54 of the Land Acquisition Act read with Section 96 of the Civil Procedure Code at the instance of the Oil and Natural Gas Corporation Limited i.e. to say, the acquiring body. It may be noted that the Appeals had been filed after leave of the court.

3. The appellant herein challenges the common judgment and awards passed by the Reference Court under Section 18 of the said Act.

4. The appellant - acquiring body had initiated acquisition of lands for the purpose of its Gas Turbine and LPG Plant. The relevant Notification under Section 4 of the Act is dated 29th October, 1982. The lands acquired are situated in the village Bhatpore, Taluka Choryasi, District Surat.

5. The Reference Court after appreciating the evidence led by the parties, determined the market value of the lands at Rs.17/- per sq. mtr.

6. The learned counsel for the appellant has contended that the market value of the acquired lands, as determined by the Reference Court is not justified by the evidentiary material on record and is excessive.

7. We have examined in detail the oral and documentary evidence on record, and in particular such evidence to which our attention has been drawn.

8. On the facts and circumstances of the case, we find that it would not be necessary to discuss each document separately and in detail, for the reason that even if the documents relied upon by the learned counsel for the appellant were accepted at face value, the claim as made in the Appeal cannot be sustained i.e. to say the judgment and award of the Reference court under Section 18 cannot be quashed and set aside to the extent

that the award under Section 11 is found to be sustainable.

9. The learned counsel for the appellant sought to rely upon the following documents, in particular.

9.1 Exh.34 is judgment and award in an earlier reference under Section 18, pertaining to the acquisition for the Bhatpore road, in Land Reference Case No.41 of 1984, wherein the relevant Notification under Section 4 was dated 10th December, 1981. In this case, the market value was determined at Rs.12/- per sq. mtr.

9.2 Exh.33 is a similar and earlier award under Section 18, dealing with the acquisition of the Kavas road wherein the relevant Notification under Section 4 is dated 27th August, 1981, determining the market value at Rs.12/- per sq. mtr.

9.3 Exh.36 is a similar judgment and award under Section 18 of the Act dealing with acquisition for the Ichhapore road, wherein the relevant Notification is dated 10th December, 1981 and determining the market value at Rs.12/- per sq. mtr.

9.4 Exh.35 is a similar award under Section 18 of the Act pertaining to acquisition for the Ichhapore road wherein the relevant Notification under Section 4 is dated 18th February, 1982 determining the market value at Rs.12/- per sq. mtr.

9.5 Similarly Exh.38 is an earlier judgment and award in a reference pertaining to acquisition for Ichhapore Kribhco Railway wherein the relevant Notification under Section 4 is dated 3rd July, 1981 and whereby the market value is determined at Rs.12/- per sq. mtr.

10. As already stated hereinabove, even if all these five documents are accepted as comparable instances for the purpose of determination of market value in respect of the present acquisition, the common theme which emerges from a collective examination of these documents is that all pertain to acquisition under Section 4 Notifications in the year 1981 (except one which is of the year 1982). Each of these instances determines market value at Rs.12/- per sq. mtr.

10.1 There is no controversy that the lands acquired in the aforesaid references are comparable and similar to the lands in the instant case, situated in the village Bhatpore. Thus, it could safely be said that the market

value of the acquired lands was Rs.12/- per sq. mtr. at the end of the year 1981. The present acquisition arises from Section 4 Notification dated 29th October, 1982 i.e. to say, about 2 years later.

10.2 If we apply the well recognised principle of granting a 10% increment per year due to lapse of time, particularly since the delay has subjected the land under acquisition to appreciation due to rapid industrial development, and allowing an increment of about 14% for this lapse of 1 year and 9 months, such increment would result in Rs.1.68 paise. When this increment is applied to the base figure of Rs.12/- per sq. mtr., it would give the result of Rs.13.68 paise per sq. mtr.

10.3 However, rather than entering in hair-splitting on a few paise per sq. mtr., we feel it more appropriate to round off this figure to Rs.13.50 paise per sq. mtr.

11. When the learned counsel for the appellant was queried, at this stage, as to whether he would be able to sustain his submission for reducing the market value any further (below the figure of Rs.13.50 paise) we find that he was not able to do so.

11.1 As against this, learned counsel for the respondent - original claimant fairly submitted that a determination of market value at Rs.13.50 paise per sq. mtr. would meet the ends of justice.

12. In the premises aforesaid, we determine the market value of the acquired lands at Rs.13.50 paise per sq. mtr. and hold and direct that the respondent original claimant shall be entitled to compensation at the aforesaid rate for the lands acquired.

12.1 We further hold and direct that the respondent original claimant shall be entitled to all statutory allowances on the basis of the aforesaid market value.

13. Consequently, these Appeals are partially allowed with no orders as to costs.

14. It is recorded by consent of the learned counsel that the appellant - acquiring body shall deposit the amount of compensation due and payable under the present judgment and decree within three months from today, and such deposit shall be made separately in each of the Land Reference Cases.

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